

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Applicant: Jack Beery
Serial No.:
Filed: (concurrently herewith)
Title: TELEVISION RECEIVER HAVING MEMORY CONTROL FOR
TUNE-BY-LABEL FEATURE
Reissue of: U.S. Patent No. 5,045,947
Issued: September 3, 1991
Docket No.: JB-2.3

Commissioner of Patents and Trademarks
Washington, DC 20231

DECLARATION AND POWER OF ATTORNEY (REISSUE)

Dear sir:

I, Jack Beery, hereby declare as follows:

My residence and post office is 907 Sixth Street, S.W., Suite 815-C, Washington, D.C. 20024, and I am a citizen of the United States of America.

I verily believe I am the original, first and sole inventor of the invention described and claimed in United States Patent No. 5,045,947 issued on September 3, 1991 and entitled TELEVISION RECEIVER HAVING MEMORY CONTROL FOR TUNE-BY-LABEL FEATURE, and described and claimed in the attached specification, for which invention I solicit a reissue patent.

I hereby state that I have reviewed and understand the contents of the attached specification, including the claims as filed.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §§1.56(a) and 1.175(a)(7).

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I verily believe the above identified U. S. Patent No. 5,045,947 (hereinafter referred to as the '947 patent) to be partly inoperative or invalid by reason of the Patentee claiming less than Patentee had a right to claim in the '947 patent. Specifically, the patent does not claim a method of controlling a television receiver wherein a control means is used to generate an operator selected channel select designation for use in tuning the receiver to a desired channel as defined in claim 5 of the attached specification. The patent does not claim a system for controlling a television receiver wherein a control means is used to generate an operator selected channel select designation for use in tuning the receiver to a desired channel, and wherein the tuning means is not recited as an element of the claim as now defined in claims 6 and 7 of the attached specification. The patent does not claim a television control system wherein the operator may selectively assign desired channels in a desired order into a cue, without also requiring means for the assignment of channel select designations to at least one of the tuning channels, as is now recited in claim 8 of the attached specification. The patent also does not claim a television control system wherein the operator may assign selected channels into two or more cues for channel selection, without also requiring means for the assignment of channel select designations to at least one of the tuning channels, as is now recited in claims 9 and 10 of the attached specification.

I am the owner of U.S. Patent 5,068,734 (hereinafter referred to as the '734 patent) of which the '947 patent is a continuation-in-part. The specifications of the '734 and '947 patents are identical, except for several additional paragraphs added to the application for the '947 patent.

At the time the applications for both the '734 and '947 patents were being prepared, I incorrectly concentrated too narrowly (as I

now realize) on an apparatus for use as a television controller, and wherein the controller had the ability to assign operator-selected channel designations for use in selecting television channels. As a result, I failed to advise my attorney who prepared the application that my invention also encompassed the method in accordance with which the device operated. At the same time, I overlooked the fact that it was not necessary to include the tuning means of the television receiver as an element in the claims, since the device could be constructed as a remote device which relied upon the television's own tuning means. Indeed, the specification clearly describes this embodiment.

In addition, I invented various other television control features, among them being a system wherein the operator may selectively assign desired channels in a desired order into a cue, or wherein the operator may assign selected channels into two or more independent cues for channel selection. These are clearly described in the specification of the '947 patent. However, because I assumed such features would all be incorporated into a single remote control device, these features were erroneously claimed in combination with the operator-selected channel designation feature. In fact, these features should have been claimed independently.

These errors arose without any deceptive intention on my part.

I discovered during the period from about January through about March of 1993 that I had claimed less than what I had a right to claim in the '947 patent. Since prior to this time, I have been studying a situation wherein I believe a manufacturer and seller of videorecorder control devices has been infringing my '734 patent. During the months of January through about March of 1993, I interviewed several attorneys about the possibility of representing

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me in connection with such matter. In discussions with these attorneys concerning the details of my case, it became clear to me that I had claimed less than I had a right to claim in one or the other of the '734 and '947 patents.

At about the same time, I was involved with the reexamination of the '734 patent. During the early part of 1993, an Office action was received in the reexamination which caused me to carefully study the claims of the '734 and '947 patents. This further convinced me I had claimed less than I had a right to claim.

I thereafter studied the '947 patent along with, at my request, the attorney who represented me through the prosecution of the '947 patent, Thomas A. Boshinski, to determine whether the specification and prior art relevant to the '947 patent would permit broader claims than those which were originally granted.

Together, Mr. Boshinski and I identified at least the subject matter set out in claims 5-10 of the accompanying specification which, through error, were not presented in the original application.

I hereby appoint Thomas A. Boshinski, Reg. No. 30,611, my attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. Address all telephone calls to (404) 897-4421. Address all correspondence to:

Thomas A. Boshinski
210 Dapplegate Way
Alpharetta, GA 30202

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements

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were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Jack Beery
Jack Beery

30 August 1993
Date



Applicant/Patentee:

Jack Beery

Patent No.:

5,045,947

Issued:

September 3, 1991

Docket No.:

JB-2.3

For:

TELEVISION RECEIVER HAVING MEMORY CONTROL
FOR TUNE-BY-LABEL FEATURE

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 CFR 1.9(f) and 1.27(b)) - INDEPENDENT INVENTOR

As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled:

TELEVISION RECEIVER HAVING MEMORY CONTROL FOR TUNE-BY-LABEL
FEATURE

described in:

- ☒ the specification filed herewith (REISSUE APPLICATION)
- ☐ application serial no. _____, filed _____.
- ☐ patent no. _____, issued _____.

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

Thomas A. Boshinski
210 Dapplegate Way
Alpharetta, GA 30202

who is an individual.

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY ...
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Jack Beery
Jack Beery
Inventor

30 August 1993
Date